

Joseph H. Blum  
Thomas J. Sullivan  
John M. Lyons  
**SHOOK, HARDY & BACON, L.L.P.**  
Two Commerce square  
2001 Market St., Suite 3000  
Philadelphia, PA 19103  
Telephone: (215) 278-2555  
Facsimile: (215) 278-2594  
jblum@shb.com  
tsullivan@shb.com  
jlyons@shb.com

*Attorneys for Defendants  
Daimler AG and  
Mercedes-Benz USA, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

ROBERT PONZIO, KARINA	)	
KLOCZKO, JESSICA IRENE MILLER	)	Case No. 1:18-cv-12544-JHR-JS
THOMAS HAYES, ALEX ACUNA,	)	
BRIAN MADSEN, VANESSA M.	)	<i>Document Electronically Filed</i>
MONTGOMERY, ROBERT MULL	)	
HADIYA NELTHROPE, and	)	Motion Date: December 7, 2020
SAMUEL SALGADO, on	)	
behalf of themselves and all others	)	<b>DEFENDANTS DAIMLER AG</b>
similarly situated,	)	<b>AND MERCEDES-BENZ USA,</b>
	)	<b>LLC'S NOTICE OF MOTION TO</b>
Plaintiffs,	)	<b>DISMISS THE CLAIMS OF</b>
	)	<b>PLAINTIFFS MILLER,</b>
v.	)	<b>MONTGOMERY, AND ACUNA</b>
	)	<b>AS A SANCTION FOR</b>
MERCEDES-BENZ USA, LLC and	)	<b>SPOILIATION OF EVIDENCE</b>
DAIMLER AG,	)	
	)	<i>Oral Argument Requested</i>
Defendants.	)	
	)	

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**TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on December 7, 2020, the undersigned, attorneys for Defendants Mercedes-Benz USA, LLC (“MBUSA”) and Daimler AG (“Daimler”) (collectively, “Defendants”), shall apply to the Honorable Joseph H. Rodriguez, United States District Court Judge, District of New Jersey, in Courtroom 5D of the Mitchell H. Cohen Building & U.S. Courthouse located at 4<sup>th</sup> & Cooper Streets, Room 1050, Camden, NJ 08101, and seek entry of an Order finding that Plaintiffs Miller, Montgomery, and Acuna (collectively, “Plaintiffs”) engaged in intentional spoliation of relevant evidence.

**PLEASE TAKE FURTHER NOTICE** that by way of the Motion, Defendants are seeking an Order dismissing Plaintiffs’ claims and entering judgment in Defendants’ favor as a sanction for Plaintiffs’ intentional spoliation of evidence.

**PLEASE TAKE FURTHER NOTICE** that in support of the Motion, Defendants shall rely on the accompanying Brief in Support of Motion, the concurrently filed Certification and Evidence (Exhibits A-O), Proposed Form of Order, and all other pleadings and memoranda on file in this matter.

**PLEASE TAKE FURTHER NOTICE** that oral argument is requested for this motion.

**PLEASE TAKE FURTHER NOTICE** that a proposed form of Order is submitted herewith.

**PLEASE TAKE FURTHER NOTICE** that a certificate attesting to the date and manner of service of these moving papers is submitted herewith.

Dated: November 10, 2020

/s/ Thomas J. Sullivan

Joseph H. Blum  
Thomas J. Sullivan  
John M. Lyons  
Two Commercial Square  
2001 Market St., Suite 3000  
Philadelphia, PA 19103  
Telephone: (215) 278-2555  
Facsimile: (215) 278-2594  
Email: [jblum@shb.com](mailto:jblum@shb.com)  
[tsullivan@shb.com](mailto:tsullivan@shb.com)  
[jlyons@shb.com](mailto:jlyons@shb.com)

Troy M. Yoshino *admitted pro hac vice*

Eric J. Knapp *admitted pro hac vice*  
Scott J. Carr *admitted pro hac vice*  
Squire Patton Boggs (US) LLP  
275 Battery St., Suite 2600  
San Francisco, California 94111  
Telephone: (415) 954-0200  
Facsimile: (415) 393-988  
Email:

[troy.yoshino@squirepb.com](mailto:troy.yoshino@squirepb.com)  
[eric.knapp@squirepb.com](mailto:eric.knapp@squirepb.com)  
[scott.carr@squirepb.com](mailto:scott.carr@squirepb.com)

Dara D. Mann *admitted pro hac vice*  
Squire Patton Boggs (US) LLP  
1230 Peachtree Street NE, Suite 1700  
Atlanta, GA 30309  
Telephone: (678) 272-3221  
Facsimile: (678) 272-3211  
Email: [dara.mann@squirepb.com](mailto:dara.mann@squirepb.com)

***Attorneys for Defendants***

***MERCEDES-BENZ USA, LLC and  
DAIMLER AG***

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of November, 2020, the foregoing was filed and served on counsel of record via the Court's ECF system:

Dated: November 10, 2020

/s/ Thomas J. Sullivan

Thomas J. Sullivan